IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

FRIDAY, THE 1ST JUNE 2007 / 11TH JYAISHTA 1929

WP(C).No. 21869 of 2005(C)

IA.1156/03 IN OS.249/2003 of MUNSIFF-MAGISTRATE COURT, CHALAKUDY

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PETITIONER:

GANGADHARAN, AGED 56 YEARS,
S/O. THAMIKUTTY, MANAGING PARTNER,
GANGA BRICKS AND TILES, KYPPAPLACKAL HOUSE,
PADINJARE CHALAKUDY VILLAGE DESOM,
MUKUNDAPURAM TALUK.

BY ADV. SRI.V.S.CHANDRASEKHARAN

RESPONDENT:

MR.JOSE, S/O. KANICHIKKATTIL SEBASTIAN,
PADINJARE CHALAKUDY VILLAGE DESOM,
MUKUNDAPURAM TALUK.

BY ADV. SRI.G.SREEKUMAR (CHELUR)

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C. KURIAKOSE,J.

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W.P.(C) No.21869 of 2005

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Dated: 1st June, 2007

JUDGMENT

Ext.P3 order attaching the immovable properties belonging to the petitioner-defendant before judgment is under challenge in this proceeding under Article 227 of the Constitution. It is obvious that the learned Munsiff had directed the petitioner to furnish security and the impugned order affords a further opportunity to the petitioner to furnish security for the plaint claim. This court while issuing notice on admission in the Writ Petition recorded an undertaking given by the counsel for the petitioner that the petitioner will not alienate the properties until further orders.

2. I find that orders of attachment before judgment under Order XXXVIII Rule 6 like the order which is impugned in this case are appealable in terms of Order XLIII Rule 1(q). This Writ Petition is liable to be dismissed on that reason alone. Accordingly, the Writ Petition will stand dismissed, however making it clear that it is open to the petitioner to invoke his appellate remedies within two weeks of receiving copy of this judgment. If appeal is preferred within that

time, the period during which this Writ Petition was pending before this court will be excluded by the appellate court for the purposes of Section 14 of the Limitation Act.

srd **PIUS C.KURIAKOSE, JUDGE**